

# **EXHIBIT A**

**EXHIBIT A**

1 SEP. 9, 2009 1:58PM 301B 8772276027 WELLS FARGO BANK NA

08-27-09 NO. 1434 PgP. 5/11

1 COMPLAINT  
2 JAMES R. STOUT, Esq.  
3 Attorney for Plaintiff

FILED

3 STEVENS LAW FIRM  
4 460 South Decatur Blvd., Suite 201  
5 Las Vegas, Nevada 89104  
6 (702) 792-4401  
7 Attorneys for Plaintiff

Aug 24 3 22 PM '09

*Ed*  
CLERK OF THE COURT

## 8 DISTRICT COURT

## 9 CLARK COUNTY, NEVADA

10 11 DENISE FULLERHAN, an individual,

12 Plaintiffs,

13 WELL'S FARGO DE AMERICA'S  
14 SERVICING COMPANY, a foreign  
15 corporation, FREMONT INVESTMENT AND  
16 TRUST, a foreign corporation, and DOES 1-5,  
17 inclusive and ROCS 1-V, inclusive,

18 Defendants.

A-09-597074-C

Case No.

Dept. No.

X/1

## 19 ARBITRATION REQUESTED

(Amount in Controversy Exceeds  
\$50,000.00.)

## 20 COMPLAINT

21 COMES NOW Plaintiff DENISE FULLERHAN [hereinafter referred to as "Plaintiff"]  
22 represented by and through her attorneys, James R. Stout, Esq. and STOUT LAW FIRM, and  
23 further complaint plead and allege as follows:

## 24 JURISDICTION

25 Plaintiff DENISE FULLERHAN was at all relevant times herein a resident of Clark  
26 County, Nevada.27 Based upon information and belief, Defendant WELL'S FARGO DE AMERICA'S  
28 SERVICING COMPANY [hereinafter referred to as "WELL'S"] is a foreign  
29 corporation, unauthorized to conduct business, and conducted business at all times herein  
30 in Clark County, Nevada.

Based upon information and belief, Defendant FREMONT INVESTMENT,

1. (hereinafter referred to as "FREMONT"), is a foreign corporation, doing business

2. business and conducted business at all times relevant herein, in Clark County, Nevada.

The residential real property which is the subject of the Dispute, commonly known

3. as the Subject Property, is located in Clark County, Nevada at 209 Royal Aberdeen Way, Las Vegas, Nevada.

4. The Subject Property is more particularly identified as APN# 137-36-514-054 [hereinafter referred to as

5. Subject Property].

6. Plaintiff is informed and believe and thereon alleges that the true names and

7. capacities, whether individual, corporate, associate or otherwise, of DOES 1-10 and RGE 1-

8. inclusive, are unknown to Plaintiff who therefore sue said Defendants by said names and

9. Plaintiff believes that each of the Defendants designated as a DOE or RGE Defendant

10. is responsible, in some manner for the events and happenings described in the Complaint and

11. presumably caused or contributed to the damages to Plaintiff as alleged herein. Plaintiff will

12. seek leave of Court to amend the Complaint to insert the true names and capacities of the DOE

13. and RGE Defendants and state appropriate charging allegations as such, when the true

14. identities of these Defendants becomes known or ascertained by Plaintiff.

15. Defendants and each of them are the employees, assigns, and/or agents of DOES

16. and RGE Defendants and were acting within the course and scope of their

17. employment, assignment and/or agency.

18. On or about March 7, 2001, Plaintiff purchased the Subject Property.

19. On or about May 1, 2006, Plaintiff refinanced her loan with Fremont Investment

20. & Loan, Inc., (hereinafter referred to as "Mortgage Lender"), NELAS

21. Inc., (hereinafter referred to as Defendant, WELLS) (hereinafter referred to as "Mortgage Lender").

22. Plaintiff executed a trust securing the Mortgage Loan with the Clark County Recorder's Office.

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08-27-09 NO. 1434 P.P. 7/11

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1. Plaintiff became delinquent in her mortgage payments to WELLS.

2. On May 14, 2009, WELLS caused to be filed with the County Recorder's Office

3. a Notice of Default and Election to Sell.

4. On or about August 17, 2009, WELLS caused to be recorded a Deed-in-Lieu of Foreclosure.

5. See below.

**FIRST CAUSE OF ACTION****Misstatements of the Real Estate Settlement and Procedures Act (RESPA)**

6. Plaintiff repeats and re-alleges and incorporates by reference the foregoing

7. Plaintiff repeats the Complaint as though fully set forth at length herein.

8. Should the Court find that the Defendants or each of them, are not in default

9. in respect of, or lack standing to service the Mortgage Loan, or foreclose on the Mortgage Loan,

10. Plaintiff seeks damages under RESPA.

11. RESPA also requires that Plaintiff be advised of any sale, transfer or assignment

12. of the Mortgage Loan, and based on information and belief, the Mortgage Loan was sold,

13. transferred and/or assigned without advising Plaintiff.

14. RESPA also requires that the Plaintiff were accurately advised of the settlement

15. costs and monthly costs and payment amount, associated with the Mortgage Loan and

16. Defendants did not accurately disclose the settlement costs and the monthly costs and payment

17. amount to the Plaintiff.

18. As a result of Defendants' violation of RESPA, Plaintiff suffered damages in

19. excess of \$10,000.

20. Plaintiff was required to retain an attorney to prosecute this cause of action.

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23.

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WELLS FARGO BANK NA

NO. 1434 P. 8/11  
08-27-09 Pg. 10

(1) reasonable attorneys' fees and costs.

**SECOND CAUSE OF ACTION****Violation of the Truth in Lending Act (TILA)**

Plaintiff repeats and re-alleges and incorporates by reference the foregoing Paragraphs of this Complaint as though fully set forth at length herein.

TILA is a Federal Act codified in 15 U.S.C. § 1601 et seq.

TILA required Defendants to provide clear, conspicuous, and accurate disclosure of all material terms for the Mortgage Loan.

Defendants failed to provide clear, conspicuous, and accurate disclosure of all material terms without limitation, loan documentation disclosures pursuant to TILA.

Defendants violated the obligations set forth in TILA.

Defendants misrepresented certain Mortgage Loan terms in violation of TILA.

As a result of Defendants' violation of TILA, Plaintiff suffered damages in excess of \$10,000.

Plaintiff was required to retain an attorney to prosecute this action and incurred reasonable attorneys' fees and costs.

**THIRD CAUSE OF ACTION****Rescission and Declaratory Relief**

Plaintiffs repeat and re-allege and incorporate by reference the foregoing Paragraphs of this Complaint as though fully set forth at length herein.

WELLS has made demands for mortgage payments to Plaintiff on the Mortgage Loan.

Based on information and belief, Plaintiffs believe that Defendants are unable to

holders of the Note and therefore, lack ownership of the Note, and a right to demand payment.  
28. Defendants have failed to provide proof that they have rights or standing under  
29.

#### 3 THE NOTE

4. Based on information and belief, Defendants did not properly sign the Note or  
5 related documents thereby rendering those documents void.

6. Plaintiff requests a declaratory judgment wherein the Defendants are declared to  
7 lack standing to pursue rights under the Note, and therefore, Defendants and/or their agents are  
8 prohibited from exercising rights under the Note, including, without limitation, foreclosing and  
9 evicting of the Subject Property, and demanding payments under the Note.

10. Plaintiff requests a rescission of the Trust Deed and that the Court declare and  
11 void the Foreclosure.

12. As a result of Defendant's violation of the aforementioned laws, including,  
13 without limitation, TILA and RESPA, Plaintiff suffered damages in excess of \$100,000.

14. Plaintiff was required to retain an attorney to prosecute this action and is entitled  
15 to reasonable attorneys' fees and costs.

#### 16 FOURTH CAUSE OF ACTION

##### 17 Unfair Lending Practices

18. Plaintiff repeats and re-alleges and incorporates by reference the foregoing  
19 paragraphs of this Complaint as though fully set forth at length herein.

20. Based on information and belief, Defendants, knowingly and intentionally made  
21 the Mortgage Loan to the Plaintiff based solely on the Plaintiff's equity in the Subject Property  
22 and without determining that the Plaintiff had the ability to repay the Mortgage Loan from other  
23 assets, including without limitation, Plaintiff's income.

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Defendants in so making the Mortgage Loan to Plaintiff knowing that there existed a reasonable probability that the Plaintiff could not perform the obligations imposed by the Mortgage Loan, engaged in predatory lending practices against Plaintiff.

As a result of Defendants' violation of NRS 598 and other unfair lending statutes, Plaintiff suffered damages in excess of \$10,000.

Plaintiff was required to retain an attorney to prosecute this action and is entitled to reasonable attorney's fees and costs.

WHEREFORE, Plaintiffs pray for judgment against Defendants and each of them as follows:

1. Defendants wrongfully proceeded with foreclosure actions;
2. Defendants violated RESPA;
3. Defendants violated TILA;
4. Declaratory judgment in favor of Plaintiff that Defendants break existing terms under the Mortgage Loan;
5. Order rescinding the Mortgage Loan;
6. Defendants violated unfair lending statutes;
7. Attorney's fees and costs of suit;
8. Monetary damages; and

SEP. 9. 2009 2:04PM 53810 8772276027 WELLS FARGO BANK NA

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For any and all such other and further relief as the Court may allow in the

causes.

DAVID STOUT, Esq.,  
1000 South Decatur Blvd., Suite 200  
Las Vegas, Nevada 89103  
(702) 794-4411

STOUT LAW FIRM

By:

JAMES R. STOUT, ESQ.  
Nevada Bar No.: 008680  
4560 South Decatur Blvd., Suite 200  
Las Vegas, Nevada 89103  
(702) 794-4411  
Attorneys for Plaintiffs

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# **EXHIBIT B**

**EXHIBIT B**

APN# 137-36-514-054

(3)

11-digit Assessor's Parcel Number may be obtained at:  
<http://redrock.co.clark.nv.us/assrrealprop/ownr.aspx>

Notice of Lis Pendens

**Type of Document**

(Example: Declaration of Homestead, Quit Claim Deed, etc.)

**Recording Requested By:**

Stout Law Firm

**Return Documents To:**

Name Stout Law Firm

Address 4560 South Decatur Boulevard, Suite 201

City/State/Zip Las Vegas, Nevada 89103

This page added to provide additional information required by NRS 111.312 Section 1-2

(An additional recording fee of \$1.00 will apply)

This cover page must be typed or printed clearly in black ink only.

1 LISP

2 JAMES R. STOUT, ESQ.

3 Nevada Bar No. 008680

4 STOUT LAW FIRM

5 4560 South Decatur Blvd., Suite 201

6 Las Vegas, Nevada 89104

7 (702) 794-4411

8 Attorneys for Plaintiff

FILED

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*E. Stoen*  
CLERK OF THE COURT

5 DISTRICT COURT

6 CLARK COUNTY, NEVADA

7 DENISE FULEIHAN, an individual,

8 Plaintiffs,

9 v.

10 WELLS FARGO dba AMERICA'S  
11 SERVICING COMPANY, a foreign  
12 corporation; FREMONT INVESTMNET AND  
13 LOAN, foreign corporation, and DOES 1-5,  
14 inclusive; and ROES I-V, inclusive,

15 Defendants.

) A-09-  
) Case No. : 597974-C  
) Dept. No.: XXIII

) ARBITRATION EXEMPT  
) (Amount in Controversy Exceeds  
) \$50,000.00.)

16 NOTICE OF LIS PENDENS

17 NOTICE IS HEREBY GIVEN TO ANY AND ALL PERSONS AFFECTED HEREBY  
18 that a Complaint has been filed in the above-entitled matter by the foregoing Plaintiff DENISE  
19 FULIHAN, against the above-entitled Defendants to set aside and/or prevent foreclosure and/or  
20 enjoin transfer or conveyance of title in the following property and thereby creates a constructive  
21 trust thereon and that said Plaintiff does hereby provide Notice pursuant to Chapter 14 of the  
22 Nevada Revised Statutes to any and all persons claiming any interest in the subject property of  
23 this pending action for:

24 209 Royal Aberdeen Way, Las Vegas, Nevada 89144 and more particularly identified  
25 as APN# 137-36-514-054

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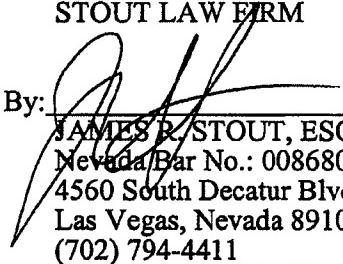
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1 Pursuant to NRS 14.010, notice is hereby provided that Plaintiff is seeking specific  
2 performance of said agreement and the transfer or retention of title thereto to Plaintiff from  
3 Defendants, as well as monetary damages in the form of general and special damages, interest,  
4 attorneys' fees and litigation costs, as well as any other form of relief which the Court may deem  
5 to be appropriate due to Defendants' acts and omissions.

6 DATED this 24 day of August, 2009.  
7

STOUT LAW FIRM

8 By:   
9

JAMES R. STOUT, ESQ.  
Nevada Bar No.: 008680  
4560 South Decatur Blvd., Suite 201  
Las Vegas, Nevada 89103  
(702) 794-4411  
12 Attorneys for Plaintiff

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# **EXHIBIT C**

# **EXHIBIT C**

## Southern Nevada GIS ~ OpenWeb Info Mapper



The MAPS and DATA are provided without warranty of any kind, expressed or implied.

Date created: 9/24/2009

### *Property Information*

|                        |  |
|------------------------|--|
| Parcel Number:         | 13736514054  |
| Owner Name(s):         | FULEIHAN DENISE LIVING TRUST and FULEIHAN DENISE TRS |
| Site Address:          | 209 ROYAL ABERDEEN WY                                |
| Jurisdiction:          | Las Vegas - 89144                                    |
| Zoning Classification: | Planned Community District (P-C)                     |

### *Miscellaneous Information*

|                      |                               |                     |            |
|----------------------|-------------------------------|---------------------|------------|
| Subdivision Name:    | PARCEL O SUMMERLIN VILLAGE 3- |                     |            |
| Lot Block:           | Lot 118 Block A               | Construction Year:  | 2001       |
| Last Sales Date:     | 03/2001                       | T-R-S:              | 20-59-36   |
| Last Sales Price:    | \$532,220                     | Census Tract:       | 3223       |
| Recorded Doc Number: | 2008102405693                 | Estimated Lot Size: | 0.26 acres |

### *Elected Officials*

|                      |                         |                       |                      |
|----------------------|-------------------------|-----------------------|----------------------|
| Commission District: | C - LARRY BROWN         | City Ward:            | 2 - STEVE WOLFSON    |
| U.S. Senate:         | JOHN ENSIGN, HARRY REID | U.S. Congress:        | 01 - SHELLEY BERKLEY |
| State Senate:        | 8 - BARBARA K. CEGAVSKE | State Assembly:       | 2 - JOHN HAMBRICK    |
| School District:     | E - TERRI JANISON       | University Regent:    | 7 - RAY RAWSON       |
| Board of Education:  | 2 - ANTHONY RUGGIERO    | Minor Civil Division: | Las Vegas Township   |

# **EXHIBIT D**

# **EXHIBIT D**

1 REMV  
2 Cynthia A. LeVasseur, Esq.  
3 Nevada Bar No. 6718  
4 Cassie R. Stratford, Esq.  
5 Nevada Bar No. 11288  
6 SNELL & WILMER L.L.P.  
7 3883 Howard Hughes Parkway  
Suite 1100  
Las Vegas, NV 89169  
Telephone: 702.784.5200  
Facsimile: 702.784.5252

8 *Attorneys for Defendant WELLS FARGO BANK, N.A., dba  
AMERICA'S SERVICING COMPANY (erroneously sued as Wells  
Fargo dba America's Servicing Company)*

10 DISTRICT COURT

11 CLARK COUNTY, NEVADA

12 DENISE FULEIHAN, an individual,

13 Plaintiff,

14 vs.

15 WELL'S FARGO dba AMERICA'S  
16 SERVICING COMPANY, a foreign  
corporation, FREEMONT INVESTMENT  
17 AND LOAN, a foreign corporation, and  
DOES 1-5, inclusive, ROES I-V, inclusive,

18 Defendants.

19 Case No. A-09-597974-C

20 Dept. No. XXIII

**NOTICE OF REMOVED ACTION**

21 TO: THE HONORABLE JUDGES OF THE ABOVE-ENTITLED COURT, THE  
22 CLERK OF THE DISTRICT COURT, AND ALL PARTIES HERETO AND THEIR  
23 ATTORNEYS.

24 Please take notice that Defendant Wells Fargo Bank, N.A., dba America's Servicing  
25 Company (*erroneously sued as Wells Fargo dba America's Servicing Company*) by and through  
26 its undersigned counsel, has removed this action to the United States District Court for Nevada  
27 pursuant to 28 U.S.C. § 1331 (Federal Question) and 28 U.S.C. § 1441 (Diversity).

28 ////

1 A true and correct copy of the Notice of Removal filed in the United States District Court for  
2 Nevada is attached hereto.

3 Dated: September 24, 2009.

4 SNELL & WILMER L.L.P.

5 By: /s/ Cassie R. Stratford

6 Cynthia A. LeVasseur, Esq.

7 Nevada Bar No. 6718

8 Cassie R. Stratford, Esq.

Nevada Bar No. 11288

9 3883 Howard Hughes Parkway, Suite 1100

Las Vegas, Nevada 89169

10 *Attorneys for Defendant WELLS FARGO BANK,  
11 N.A. , dba America's Servicing Company  
(erroneously sued as Wells Fargo dba America's  
12 Servicing Company)*

**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing document **NOTICE OF REMOVED ACTION** by the method indicated:

- X       by U. S. Mail  
                 by Facsimile Transmission  
                 by Overnight Mail  
                 by Federal Express  
                 by Hand Delivery

and addressed to the following:

James R. Stout, Esq.  
Stout Law Firm  
4560 S. Decatur, Suite 201  
Las Vegas, Nevada 89103  
Attorney for Plaintiff

DATED this 24th day of September, 2009.

/s/ Rita Tuttle  
An employee of Snell & Wilmer L.L.P.